

**UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

**AT BECKLEY**

CENTER FOR BIOLOGICAL DIVERSITY,  
*et al.*,

*Plaintiffs,*

v.

UNITED STATES FOREST SERVICE, *et al.*

*Defendants,*

v.

SOUTH FORK COAL COMPANY, LLC,

*Defendant-Intervenor.*

Civil Action No. 5:24-cv-00274  
(Chief Judge Volk)

**PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT**

Plaintiffs Center for Biological Diversity, Appalachian Voices, Greenbrier River Watershed Association, Kanawha Forest Coalition, Sierra Club, and West Virginia Highlands Conservancy move this Court to grant summary judgment in their favor. Fed. R. Civ. P. 56. Defendants United States Forest Service (“Forest Service”), Randy Moore, Chief of the Forest Service, and Jason Hattersley, Gauley District Forest Service Ranger, (collectively, Federal Defendants or Forest Service) violated the Endangered Species Act (“ESA”), National Environmental Policy Act (“NEPA”), and Administrative Procedure Act (“APA”) by failing to comply with endangered species consultation requirements of the ESA and environmental review requirements of NEPA before issuing Road Use Permit FS-7700-41 (“RUP”) to allow private mining company South Fork Coal Company (“SF Coal”) to use Forest Service roads in the

Monongahela National Forest (“MNF”) to haul coal and coal mining equipment and supplies within the Cherry River watershed.

Plaintiffs respectfully request that the Court vacate the RUP due to the Forest Service’s failure to complete consultation with FWS, in violation of section 7(a)(2) of the ESA, and failure to conduct an environmental review, in violation of NEPA.

DATED: November 26, 2024

Respectfully submitted,

/s/ Margaret E. Townsend

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